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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,521	10/27/2003	Larry Lee Roundy	199-0205US	1892
29855 7590 12/23/2009 WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P. 20333 SH 249 6th Floor HOUSTON, TX 77070				
			EXAMINER SMITH, MARCUS	
			ART UNIT 2467	PAPER NUMBER
			MAIL DATE 12/23/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/694,521

**Applicant(s)**

ROUNDY ET AL.

**Examiner**

MARCUS R. SMITH

**Art Unit**

2467

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/24/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5,6,9,10 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,9,10 and 13-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 9/24/09 have been fully considered but they are not persuasive. The examiner disagrees with the applicant that Kohler fails to disclose retaining the first incoming call in a first state and then answering the second incoming call and placing it in the first state after the first incoming call progresses to the second state. The examiner reminds the applicant that the title of the application states an apparatus for simultaneous incoming calls. However, Kohler clearly shows that both calls are placed in the queue (step 901), but only one call can be placed at the head of the queue (step 902), which the examiner views as the first state. Therefore the first call is placed at the head of queue until is connected (second state) to an available agent (step 905, 908, 913, or 916), and then the second call can be placed into the head of the queue (then back to step 902, but the now the second call will be at the head of the queue.). Thus, the examiner is keep the prior art rejection of independent claims 5, and 9 for same reasons stated above for claim 1. Additionally claims 2, 6, 10, and 13-15 are also maintained for at least the same reasons stated above as well.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5, 6, and 14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In accordance with the new USPTO's "Interim Patent Subject Matter Eligibility Examination Instructions" issued on

August 24, 2009, 101 rejections will be applied if the claimed computer readable medium (even storage medium, for example) is not clearly defined to exclude non-statutory transitory media such as signals or transmission media. The 101 rejection can be overcome if the claim recites non-transitory media AND the specification is amended to recite that the media is non-transitory media.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kohler et al. (US 5,206,903).

Regarding to claim 1 (see figure 9), Kohler teaches a method for processing incoming calls comprising: receiving at least first and second incoming calls (steps 900, 901: column 10, lines 15-25: ACD receives incoming calls), retaining the first incoming call in a first state (step 902, column 10, lines 25-30, it is examines the oldest (first) call in the queue. ), waiting until the first incoming call progresses to a second state (Step 905 :column 10, lines 40-45), answering the second incoming call and placing it in the first state after the first incoming call progresses to the second state (column 10, lines 40-45: after step 905, it goes back to steps 901,902), and transitioning the second incoming call in the first state to a second state (after 902, it transitions to step 905 : column 10, lines 40-45).

Regarding to claim 2, Kohler further teaches that the first state is a pending answer state (where the call is the head of queue waiting to be process; step 902) and the second state is a call connected state (step 905. column 10, lines 35-45).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-6, 9-10, and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler in view of Miloslavsky et al. (US 6,597,685).

Regarding to claims 5, and 9 (see figure 9), Kohler teaches a method for processing incoming calls comprising: receiving at least first and second incoming calls (steps 900, 901: column 10, lines 15-25: ACD receives incoming calls), retaining the first incoming call in a first state (step 902, column 10, lines 25-30, it examines the oldest (first) call in the queue. ), waiting until the first incoming call progresses to a second state (Step 905 :column 10, lines 40-45), answering the second incoming call and placing it in the first state after the first incoming call progresses to the second state (column 10, lines 40-45: after step 905, it goes back to steps 901,902 (also see step 911) ), and transitioning the second incoming call in the first state to a second state (after 902, it transitions to step 905 : column 10, lines 40-45).

Kohler discloses all of the subject matter as described above except for instructions be on a video conferencing station. Miloslavsky teaches a PBX/ACD that

accepts and routes multiple (video) calls to a plurality of video station as well as normal voice calls (column 5, lines 1-25). Thus it would have been obvious to one having ordinary skill in the art at the time invention was made to have ACD of Kohler to be able to handle and process multiple video calls as taught by Miloslavsky's ACD in order to improve service and speed for routing video calls and conferencing though and CTI enhanced telephone systems (column 2, lines 1-25). Therefore the combination of Kohler and Miloslavsky will teach ACD.PBX as a video conferencing station as seen in figure 1 of Miloslavsky.

Regarding to claims 6 and 10, Kohler further teaches that the first state is a pending answer state (where the call is the head of queue waiting to be process; step 902) and the second state is a call connected state (step 905. column 10, lines 35-45).

Regarding to claims 13-15, Miloslavsky also teaches: starting a timer when placing the second incoming call in the first state; and hanging up the second incoming call and placing it in a third state if the timer expires (Miloslavsky's ACD is similar to Kohler's ACD except that Miloslavsky's ACD uses a timer to terminated a call, when it can not connect the call (see figure 3, steps 294-298). These steps in figure 3 teach that ACD disconnects the call (third state) and sends out busy signal. The examiner views sending a busy signal as hanging up the call, because it forces the caller to end the call, and try to call back later.).

**Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Douglas et al. (US 6,363,424).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCUS R. SMITH whose telephone number is (571)270-1096. The examiner can normally be reached on Mon-Thurs: 7:30 am - 5:00 p.m. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on 571 272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12/16/09  
/Pankaj Kumar/  
Supervisory Patent Examiner, Art Unit 2467

